

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

REY ARMIJO,
RUBY F. ARMIJO, and
SAMIRA ORNEALAS,

Plaintiffs,

vs.

No. CV 19-00257 JCH/JFR

OFFICER WANZOR, OFFICER STACY, and
CLOVIS POLICE DEPT, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court under Fed. R. Civ. P. 41(b) on the handwritten civil rights complaint filed by Plaintiffs, Rey Armijo, Ruby F. Armijo, and Samira Ornealas, on March 22, 2019. (Doc. 1). The Court dismisses this case without prejudice for failure to comply with statutes, rules, and Court Orders, and failure to prosecute.

Acting *pro se*, Plaintiffs filed this civil rights proceeding under 42 U.S.C. § 1983 on March 22, 2019. At the time they filed the Complaint, Plaintiffs were prisoners incarcerated at the Curry County Detention Center. (Doc. 1 at 1).¹ Plaintiffs did not pay the \$400.00 filing fee or submit an application to proceed *in forma pauperis* under 28 U.S.C. § 1915. On April 5, 2019, the Court

¹ The Court notes that there are inconsistencies between the Complaint and the Curry County Detention Center records, including the spelling of Plaintiffs' names, and there are indications that some of the signatures on the Complaint may be forgeries. *See* Doc. 1 at 3-4. However, the Court treats the allegations of the Complaint as true for purposes of this Memorandum Opinion and Order.

entered an Order to Cure Deficiency, directing the Plaintiffs to either pay the filing fee or submit applications to proceed under § 1915 within 30 days after entry of the Order. (Doc. 2).


More than 30 days elapsed after entry of the April 5, 2019 Order, and Plaintiffs did not pay the filing fee, submit § 1915 applications to proceed, or otherwise respond to the Order. The Court then entered an Order to Show Cause on May 20, 2019. (Doc. 5). The Order directed Plaintiffs to show cause why the case should not be dismissed for his failure to pay the filing fee, submit an application to proceed as required by 28 U.S.C. § 1915(b), or respond to the Court's April 5, 2019 Order. (Doc. 5). Plaintiffs did not show cause or respond to the Court's May 20, 2019 Order to Show Cause. The copy of the Order to Show Cause sent to Plaintiffs' address of record was returned to the Court as undeliverable. (Doc. 6, 7). The Court's research indicates that Plaintiffs have all been released from the custody of the Curry County Detention Center and did not notify the Court of any change of address.

Under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required to collect the federal filing fee from the Plaintiffs or authorize Plaintiffs to proceed without prepayment of the fee. Pro se litigants are also required to follow the federal rules of procedure and simple, nonburdensome local rules. *See Bradenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980). The local rules require litigants, including prisoners, to keep the Court apprised of their proper mailing address and to maintain contact with the Court. D.N.M. LR-Civ. 83.6.

The Court's April 5, 2019 and May 20, 2019 Orders directed Plaintiffs to pay the filing fee, submit § 1915 applications to proceed, or otherwise show cause why failure to do so should be excused by the Court. (Doc. 2, 5). Plaintiff s failed to comply with, or even respond to, the Court's Orders. Plaintiffs additionally failed to comply with D.N.M. LR-Civ. 83.6 by failing to keep the Court apprised of their mailing address and failed to prosecute this case. The Court may

dismiss an action under Fed. R. Civ. P. 41(b) for failure to prosecute or to comply with statutes, the rules of civil procedure, local rules, or court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n.3 (10th Cir. 2003). The Court will dismiss this case for Plaintiffs' failure to comply with 28 U.S.C. § 1915, D.N.M. LR-Civ. 83.6, and the Court's April 5, 2019 and May 20, 2019 Orders and for failure to prosecute this proceeding.

IT IS ORDERED that the handwritten civil rights complaint filed by Plaintiffs, Rey Armijo, Ruby F. Armijo, and Samira Ornealas, on March 22, 2019 (Doc. 1) is **DISMISSED** without prejudice under Fed. R. Civ. P. 41(b) for failure to comply with 28 U.S.C. § 1915, D.N.M. LR-Civ. 83.6, the Court's April 5, 2019 and May 20, 2019 Orders, and for failure to prosecute this proceeding.


UNITED STATES DISTRICT JUDGE